

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-1890-2019 (O&M)

Date of decision:- 20.03.2019

M/s Gauri Shankar Aggarwal, Engineers & Contractor

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Varun Gupta, Advocate,
for the petitioner.

Ms. Puneeta Sethi, Advocate,
for the respondents.

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KRISHNA MURARI, C.J. (ORAL)

CM-4456-2019

Leave is granted to place on record written statement filed on behalf of respondent No. 3 and the application is allowed.

CWP-1890-2019

Petitioner-firm was allotted tender for supply of material and labour required for the entire building work. Finding that the work progress was slow, letter dated 24.09.2018 was issued by the respondents. Another notice for accelerating the progress of work was issued on 26.09.2018. Similar notice dated 01.10.2018 was also issued. The petitioner sent reply to the said notices setting out detailed facts and reasons for slow progress of the work. However, while making assessment of the workload return filed by the petitioner, it was informed vide letter dated 31.12.2018 that on account of slow progress in work, a decision was taken that it was incapable of handling any more works in future. Learned counsel for the petitioner contended that the same tantamounts to blacklisting and since it has been done without any notice or opportunity for an indefinite period in violation of principles of natural justice, the same is liable to be quashed.

2. In response to the notice, respondents have filed a written statement. It is stated that the remark that the petitioner

is incapable of handling any more works in future is only for a quarter and the same is commensurate with the time and progress chart and the restraint imposed shall be removed by reflecting yes in case the workload return finds tangible progress in the work being carried out and, thus, it does not amount to blacklisting. It is also stated that the observation that the petitioner is incapable of handling any more works in future cannot be implied to mean black listing for ever as it would last only till the next quarter or till the completion of respective work.

3. Be that as it may, even if the restraint is there for a quarter or till the completion of the respective work and it may not be for an indefinite period, but since the same has been done without any notice requiring the petitioner to show cause as to why it should be assessed as incapable of handling any more works in future, even if it may be for a quarter, the same is in violation of the principles of natural justice as no notice for the same was ever issued to the petitioner and, thus, the impugned action is not liable to be sustained. Accordingly, the observation that the petitioner is incapable of handling any more works in future which is contained in the letter/order dated 31.12.2018 while making assessment of workload return filed by it stands quashed. It shall, however, be open to the respondent-authorities to pass fresh orders in accordance with law after issuing notice and affording opportunity of hearing to the petitioner.

4. The writ petition stands disposed of.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

20.03.2019

Anodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No